

Application No.: 10/670,956
Art Unit: 3765

Attorney Docket No. 23372.00
Confirmation No. 7050

REMARKS

By the present amendment, Applicant has amended Claims 1, 10 and 14, and cancelled Claim 11. Claims 1-10 and 12-18 remain for further consideration. Claim 1 is the sole independent claim.

Applicant appreciates the courtesies extended to Applicants' representatives during the personal interview held June 2, 2004. Present at the interview were Examiner A. Hoey, Attorney L. Babu and Agent W. Edmonds. Prior to the interview a proposed amendment was presented to the Examiner for review. Proposed amended Claim 1 incorporated the subject matter of Claim 2. Applicant's representative was prepared to advance arguments in support of the patentability of the garment defined by the proposed amended claim. However, the Examiner stated that the primary reference to Damron (U.S. Patent No 2,072,030) was relied upon for its teaching of a garment folded upon itself and contained between a pair of side pockets, which feature appears to form the basis of Applicant's claims. The Examiner suggested that Claim 1 would better be defined over Damron by clearly describing the structure of the pockets and the location of the mating halves of the zipper around each pocket. During the interview and in a subsequent telephone conversation with the Examiner, both occurring on June 2, 2004, language was suggested to further define the zipper fastener as --continuously extending around only the two side edges and the bottom edge-- of each pocket. The present response summarizes the substance of the interview. The Examiner's helpful suggestions are genuinely appreciated and have been adopted by Applicant to the extent indicated by the present response.

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In the recent Office Action, the Examiner rejected Claims 1, 10 and 14 under 35 U.S.C. § 102(b) as being anticipated by Damron. Claims 8, 9 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Damron, Claims 2-4, 6, 11, 13 and 15-18 were rejected as being unpatentable over Damron in view of Gershman (Velcro Digest article), Camarena (US Pat. No. 4,301,545), or Harris (US Pat. No. 5,996,121). The Examiner indicated that Claims 5 and 7 would be allowable if rewritten in independent form.

The Examiner's indication of allowable subject matter is noted with appreciation. However, for the reasons delineated herein and as discussed during the aforementioned interview Applicant feels that she is entitled to patent protection for the embodiment defined by independent Claim 1, as presently amended. Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art.

Amended independent sets forth a summerwear garment that includes a lower torso garment and a pair of rectangular pockets attached to the lower torso garment. Each of the pockets is defined as having an open top edge, two side edges and a bottom edge with the two side edges and the bottom edge being to the sides of the lower garment. The claimed garment further includes mating halves of a zipper fastener "continuously extending around only the two side edges and the bottom edge of said pockets, respectively." The functional features of Applicant's garment are also set forth by the claim, wherein the mating halves of the zipper fastener are joined and zipped around the two side edges and the bottom edge with the lower torso garment being folded between the pockets.

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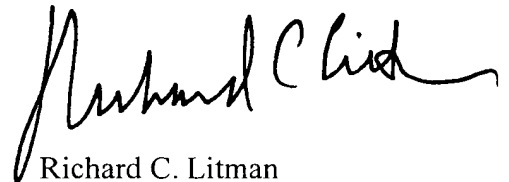
The patent to Damron discloses a raincoat having patch pockets with slide fasteners disposed around the entire periphery of the pockets, which when fastened together form a carrying bag into which the raincoat is folded and secured therebetween. In contrast, the present invention has a pair of pockets disposed on opposing side of the lower torso garment with mating halves of a zipper fastener being disposed around three sides of the pocket. Specifically, the presently claimed garment has mating halves of the zipper fastener attached to the two side edges and the bottom edge of the pockets. The top edge of each pocket is unhindered by a fastener and therefore is open. While there is also a transverse slit with mating parts of a slide fastener in each of Damron's pockets, this potential opening is disposed on the sidewall of the pocket, and not on the top most edge of the pocket as in the present invention. Therefore, the Damron patent is deficient as an anticipatory reference against independent Claim 1, as presently amended. Moreover, the reference to Damron, when taken alone or in combination with the secondary references to Gershman, Camarena, or Harris, is insufficient to render the presently claimed invention obvious within the meaning of 35 USC 103 since the essential features which form the basis of the present claims is neither disclosed nor suggested by the applied prior art. For at least these reasons, Applicant respectfully submits that independent Claim 1, as amended, and corresponding dependent Claims 2-10 and 12-18 are allowable over the prior art of record.

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For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard C. Litman", with a stylized flourish at the end.

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RCL:dht/lxb